

AMENDED IN SENATE JUNE 5, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2220

Introduced by Assembly Member Daly

February 20, 2014

An act to amend Sections 7583.32 and 7583.40 of, and to repeal and add Section 7583.39 of, the Business and Professions Code, *and to amend Section 28235 of, and to add Chapter 4.1 (commencing with Section 28010) to Division 6 of Title 4 of Part 6 of, the Penal Code*, relating to private security services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2220, as amended, Daly. Private security services: private patrol operators.

The Private Security Services Act provides for the licensure and regulation of private patrol operators by the Bureau of Security and Investigative Services in the Department of Consumer Affairs. The act requires a private patrol operator employing a security guard who carries a firearm to maintain an insurance policy that provides minimum limits of insurance of \$500,000 for any one loss due to bodily injury or death and \$500,000 for any one loss due to injury or destruction of property.

This bill would instead require the bureau to require a private patrol operator or applicant for licensure, as a condition precedent to licensure or continued licensure, to file or have on file with the bureau an insurance policy that provides minimum limits of insurance of \$1,000,000 for any one loss due to bodily injury or death and \$1,000,000 for any one loss due to injury or destruction of property as well as a

certificate of workers' compensation coverage for its employees issued by an admitted insurer.

The act requires a private patrol operator licensee, qualified manager of a licensee, or security guard who, in the course of his or her employment, may be required to carry a firearm, to satisfy specified requirements prior to carrying a firearm, including the completion of a course of training in the carrying and use of firearms. Existing law exempts from this requirement a duly appointed peace officer, as defined, *who has successfully completed a course of study in the use of firearms*. The act prohibits the bureau from renewing an expired firearms qualification card unless, *among other requirements*, the applicant has requalified on the range and successfully passed a written examination, as specified.

This bill would exempt a duly appointed peace officer, as defined, from the requirements of requalifying on the range and passing the written examination.

Existing law generally requires a transfer of a firearm to be conducted by a firearms dealer; and requires specified information about the purchaser and the firearm in the transaction to be submitted to the Department of Justice. The department has created a form for this purpose known as the Dealers' Record of Sale form or DROS form. Existing law authorizes the department to charge a fee for the costs associated with the submission of the DROS form. Existing law does not authorize a business entity to own or register a firearm.

This bill would establish procedures allowing a Private Patrol Operator (PPO) business entity to be the legal and registered owner of a firearm. The bill would state findings and declarations of the Legislature, and express the intent of the Legislature in connection with these procedures. The bill would direct the Department of Justice to modify the DROS form and create a certificate of assignment (COA), and to charge a reasonable fee for the filing and processing of the COA for these purposes and for enforcement of these provisions. Among other things, the bill would allow a security guard to be assigned a firearm by the PPO through a COA, as specified, and for a firearm custodian to be designated by the PPO. The bill would require submission to the Department of Justice of information pertaining to the ownership of a firearm by a PPO, the assignment of a firearm by a PPO, and the identity of a PPO firearms custodian, as specified. The bill would provide that an assignment of a firearm by a PPO to a security guard employee for purposes of employment duties would not

constitute a loan, sale, or transfer of a firearm. The bill would require a security guard, upon request by the PPO, or upon separation of employment or revocation of the security guard's firearm qualification card, and within 48 hours, to return the assigned firearm to the PPO. The bill would provide that the failure of a security guard to return an assigned firearm as required would be a misdemeanor. By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7583.32 of the Business and Professions
2 Code is amended to read:

3 7583.32. (a) A firearms qualification card expires two years
4 from the date of issuance, if not renewed. A person who wishes
5 to renew a firearms qualification card shall file an application for
6 renewal at least 60 days prior to the card's expiration. A person
7 whose card has expired shall not carry a firearm until he or she
8 has been issued a renewal card by the bureau.

9 (b) The bureau shall not renew a firearms qualification card
10 unless all of the following conditions are satisfied:

11 (1) The cardholder has filed with the bureau a completed
12 application for renewal of a firearms qualification card, on a form
13 prescribed by the director, dated and signed by the applicant under
14 penalty of perjury certifying that the information on the application
15 is true and correct.

16 (2) The applicant has requalified on the range and has
17 successfully passed a written examination based on course content
18 as specified in the firearms training manual approved by the
19 department and taught at a training facility approved by the bureau.

20 (3) The application is accompanied by a firearms requalification
21 fee as prescribed in this chapter.

(4) The applicant has produced evidence to the firearm training facility, either upon receiving his or her original qualification card or upon filing for renewal of that card, that he or she is a citizen of the United States or has permanent legal alien status in the United States. Evidence of citizenship or permanent legal alien status is that deemed sufficient by the bureau to ensure compliance with federal laws prohibiting possession of firearms by persons unlawfully in the United States and may include, but not be limited to, Department of Justice, Immigration and Naturalization Service Form I-151 or I-551, Alien Registration Receipt Card, naturalization documents, or birth certificates evidencing lawful residence or status in the United States.

(c) An expired firearms qualification card may not be renewed. A person with an expired registration is required to apply for a new firearms qualification in the manner required of persons not previously registered. A person whose card has expired shall not carry a firearm until he or she has been issued a new firearms qualification card by the bureau.

(d) Paragraph (2) of subdivision (b) shall not apply to a duly appointed peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code.

SEC. 2. Section 7583.39 of the Business and Professions Code is repealed.

SEC. 3. Section 7583.39 is added to the Business and Professions Code, to read:

7583.39. The bureau shall require, as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file with the bureau the following:

(a) An insurance policy, as defined in Section 7583.40.

(b) A certificate of workers' compensation coverage for its employees issued by an admitted insurer.

SEC. 4. Section 7583.40 of the Business and Professions Code is amended to read:

7583.40. "Insurance policy," as used in this article, means a contract of liability insurance issued by an insurance company authorized to transact business in this state that provides minimum limits of insurance of one million dollars (\$1,000,000) for any one loss due to bodily injury or death and one million dollars

1 (\$1,000,000) for any one loss due to injury or destruction of
2 property.

3 *SEC. 5. Chapter 4.1 (commencing with Section 28010) is added*
4 *to Division 6 of Title 4 of Part 6 of the Penal Code, to read:*

5
6 *CHAPTER 4.1. REGISTRATION AND ASSIGNMENT OF FIREARMS*
7 *BY PRIVATE PATROL OPERATORS*
8

9 *28010. (a) The Legislature finds and declares that current*
10 *practices and statutes authorize the purchase, registration, and*
11 *ownership of firearms by an individual, but not by a business entity.*

12 *(b) It is the intent of the Legislature in enacting this chapter to*
13 *allow business ownership and registration of firearms in the case*
14 *of licensed Private Patrol Operators (PPOs) who are actively*
15 *providing armed private contract security services. It is further*
16 *the intent of the Legislature to establish procedures whereby a*
17 *PPO may assign firearms it owns to its employees who are licensed*
18 *to carry firearms and that assignment of a firearm by a PPO to*
19 *that employee would not constitute a loan, sale, or transfer of a*
20 *firearm.*

21 *(c) It is the intent of the Legislature to require notification of*
22 *the Bureau of Security and Investigative Services any time a*
23 *security guard is listed on the Prohibited Armed Persons File so*
24 *that the bureau may proceed with appropriate action regarding*
25 *the licensing of the employee.*

26 *(d) For purposes of this chapter, "private patrol operator" or*
27 *"PPO" means a private patrol operator licensed pursuant to*
28 *Chapter 11.5 (commencing with Section 7580) of Division 3 of the*
29 *Business and Professions Code.*

30 *(e) For purposes of this chapter, "bureau" means the Bureau*
31 *of Security and Investigative Services within the Department of*
32 *Consumer Affairs.*

33 *(f) For purposes of this chapter, "department" means the*
34 *Department of Justice.*

35 *28012. (a) A PPO may be the legal and registered owner of*
36 *a firearm.*

37 *(b) The department shall modify the department's Dealers'*
38 *Record of Sale (DROS) form to allow a PPO to be listed as the*
39 *purchaser and legal owner of a firearm. The form shall also require*
40 *the PPO to identify its type of business formation and to include*

1 any tax identification number or other identifying number of the
2 PPO that may be required by the department.

3 (c) (1) The department shall modify the department's DROS
4 form to require the PPO to designate a "firearms custodian" for
5 the firearm owned by the PPO that is listed in the DROS. A
6 firearms custodian shall possess a valid firearms qualification
7 permit issued by the Department of Consumer Affairs. A firearm
8 shall not be assigned by a PPO pursuant to this chapter if the PPO
9 does not have a designated firearms custodian for the firearm. A
10 firearms custodian is responsible for the tracking, safekeeping,
11 and inventory of those firearms of the PPO for which the custodian
12 is designated, and shall serve as a point of contact for the
13 department regarding the firearms for which the custodian is
14 designated.

15 (2) If a firearms custodian ceases to be employed by the PPO,
16 or otherwise becomes ineligible to be the firearms custodian, the
17 PPO shall notify the department of that fact, in a manner
18 prescribed by the department, and the PPO shall designate a
19 replacement firearms custodian within 30 days of that notice.

20 (d) A security guard shall possess a valid firearm qualification
21 permit prior to receiving a firearm from a PPO pursuant to a
22 Certificate of Assignment (COA). A firearm shall only be assigned
23 by a PPO to a security guard who is assigned to work at an account
24 of the PPO that requires the security guard to be armed.

25 (e) (1) The department shall prescribe a "Certificate of
26 Assignment" or "COA." The COA shall contain the same fields
27 as the DROS form, and shall be used to identify the employee of
28 the PPO who has been assigned a firearm by the PPO pursuant
29 to this chapter.

30 (2) Upon the PPO assigning a firearm to an employee who is
31 a security guard licensed pursuant to Chapter 11.5 (commencing
32 with Section 7580) of Division 3 of the Business and Professions
33 Code, the licensed security guard shall complete the COA, and
34 the PPO shall file the COA with the department in a timely manner
35 as prescribed by the department.

36 (f) The department shall cause the information contained on
37 the COA to be entered into the Automated Firearms System in a
38 timely manner.

39 (g) If a security guard becomes listed on the Prohibited Armed
40 Persons File, the department shall immediately notify the bureau

1 of the listing by secured electronic delivery. Upon that notification,
2 the bureau shall take appropriate action regarding the security
3 guard and, if necessary, the PPO. In addition, the department shall
4 notify the PPO, in the manner the department deems appropriate,
5 that the PPO employee is prohibited from being armed. This
6 chapter does not prohibit the department from also notifying the
7 bureau if a security guard has been arrested and charged with an
8 offense that, upon conviction, would constitute a basis for
9 revocation of a firearms qualification permit or security guard
10 registration.

11 28014. The department shall charge a fee not to exceed the
12 reasonable costs to the department for filing and processing a
13 COA, and for the costs incurred in enforcing this chapter,
14 including, but not limited to, entering information obtained
15 pursuant to this chapter into the Automated Firearms System and
16 other databases as deemed necessary by the department. The fee
17 shall be deposited in the Dealers' Record of Sale Special Account.

18 28016. If the PPO ceases to do business, ceases to possess a
19 valid PPO license as determined by the Director of Consumer
20 Affairs, ceases as a business entity, or changes its type of business
21 formation, the PPO shall, within 30 days and unless otherwise
22 prohibited by law, complete new DROS forms for all PPO-owned
23 firearms and transfer those firearms to a new owner.

24 28018. Notwithstanding any other law, an assignment of a
25 firearm pursuant to this chapter shall not constitute a loan, sale,
26 or transfer of a firearm.

27 28020. (a) Within 48 hours of the PPO's request, for any
28 reason, or within 48 hours of separation of employment or
29 revocation of the firearm qualification card, the security guard
30 shall return to the PPO the firearm owned by the PPO and listed
31 on a COA.

32 (b) The failure of a security guard to comply with subdivision
33 (a) is a misdemeanor.

34 (c) This chapter does not limit the right of a licensed security
35 guard to use, possess, or otherwise lawfully carry a firearm owned
36 by that licensed security guard.

37 SEC. 6. Section 28235 of the Penal Code is amended to read:

38 28235. All money received by the department pursuant to this
39 article shall be deposited in the Dealers' Record of Sale Special
40 Account of the General Fund, which is hereby created, to be

1 available, upon appropriation by the Legislature, for expenditure
2 by the department to offset the costs incurred pursuant to any of
3 the following:

4 (a) This article.

5 (b) Section 18910.

6 (c) Section 27555.

7 (d) Subdivisions (d) and (e) of Section 27560.

8 (e) *Chapter 4.1 (commencing with Section 28010).*

9 ~~(e)~~

10 (f) Article 6 (commencing with Section 28450).

11 ~~(f)~~

12 (g) Section 31110.

13 ~~(g)~~

14 (h) Section 31115.

15 ~~(h)~~

16 (i) Subdivision (a) of Section 32020.

17 ~~(i)~~

18 (j) Section 32670.

19 ~~(j)~~

20 (k) Section 33320.

21 *SEC. 7. No reimbursement is required by this act pursuant to*
22 *Section 6 of Article XIII B of the California Constitution because*
23 *the only costs that may be incurred by a local agency or school*
24 *district will be incurred because this act creates a new crime or*
25 *infraction, eliminates a crime or infraction, or changes the penalty*
26 *for a crime or infraction, within the meaning of Section 17556 of*
27 *the Government Code, or changes the definition of a crime within*
28 *the meaning of Section 6 of Article XIII B of the California*
29 *Constitution.*